

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ROBERT PIPER,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-341-SLR
)	
RICK KEARNEY, DAVID JACOBS)	
and D.O.C.,)	
)	
Defendants.)	

**STATE DEFENDANTS MOTION TO DISMISS/SUMMARY JUDGMENT PURSUANT
TO RULES 12 (b)(1) AND 12(b)(6) OF THE
FEDERAL RULES OF CIVIL PROCEDURE**

COME NOW, the defendants, Rick Kearney, David Jacobs and the Department of Correction, by and through undersigned counsel, and hereby respectfully request that this Honorable Court enter an Order, pursuant to Rules 12(b)(1), 12 (b)(6) and 56(c) of the Federal Rules of Civil Procedure, dismissing with prejudice all claims against Defendants. In support of their motion to dismiss/summary judgment, Defendants have filed simultaneously herewith a memorandum of points and authorities demonstrating the requested relief.

WHEREFORE, Defendants respectfully requests that this Honorable Court enter an Order dismissing Plaintiff's claims with prejudice.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Lisa Barchi

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DATE: March 2, 2006

Attorney for Defendants

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)	
Defendants.)	

ORDER

AND NOW, this _____ day of _____, 2006, the Motion to Dismiss filed by Defendants Rick Kearney, David Jacobs and the DOC in the above-captioned matter having been duly considered, and any opposition thereto,

IT IS ORDERED that the Motion to Dismiss is granted and Plaintiff's Complaint is dismissed with prejudice.

The Honorable Sue L. Robinson, Judge
United States District Court

CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2006 I electronically filed *Motion to Dismiss/Summary Judgment* with the Clerk of Court using CM/ECF. I hereby certify that on March 2, 2006 I have mailed by United States Postal Service, the document to the following non-registered participant:

Robert Piper
SBI #170365
Sussex Correctional Institution
P.O. Box 500
Georgetown, DE 19947

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Lisa Barchi
Lisa Barchi
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